

REMARKS

Claims 32 to 36 and 38 to 62 are currently pending in the present application.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants thank the Examiner for allowing claims 39, 40, 45 to 53, 55, 58 and 59.

Claims 32 to 36, 44, 54 and 56 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Publication No. 2002/0180270 to Heckman et al. in view of U.S. Patent No. 5,042,883 to McCann et al.

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must not be based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

As clearly indicated by the Supreme Court in the *KSR* decision, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements” in the manner claimed. *See KSR Int’l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

While the rejections may not be agreed with, to facilitate matters, claim 32 has been rewritten to provide certain features of allowed claim 39. In particular, claim 32, as presented, provides that the two power supply devices are batteries, a second battery being connected to a first battery via a DC-isolation device and being chargeable via the first battery, and further provides that the DC-isolation device has an electronic monitoring unit

to monitor states of charge of the batteries. It is respectfully submitted that the applied references, whether taken alone or combined, do not disclose or suggest these features for essentially the same reasons that claim 39 is allowed.

Also, as previously explained as to claim 32, it is respectfully submitted that any review of the applied references makes plain that they do not disclose nor suggest the feature in which brake actuating devices which are activatable by the electronic control units, at least one of the brake actuating devices being activatable by more than one of the electronic control units, as provided for in the context of the claimed subject matter.

The Final Office Action conclusorily asserts that the central unit (10) of the Heckmann reference includes at least two microcomputers which are each interpreted as an individual control unit, since figure 1 of the Heckmann reference shows brake actuation information is transmitted to each BUS line (102) and (104), and subsequently to each of the brake actuating devices. The Final Office Action also conclusorily asserts that figure 1 of the Heckmann reference represents the central unit (10), although the Heckmann reference makes clear at paragraph [0018] that an exemplary embodiment of the *bus interface* is shown in figure 1 and at paragraph [0019] that figure 1 shows a *communication system* -- and not central unit (10) as asserted by the Office. (See Final Office Action).

The Heckman reference, however, states that the “central unit 10 contains at least two microcomputers, ... , the two microcomputers form the wheel brakes’ set-point quantities (FV) that they provide via communications system 24 to *control units 26, 28, 30, and 32*, which are disposed in the area of the wheel brakes”. It further states that the “*control units, via drive or selection lines 34 and 36, 38 and 40, 42 and 44, 46 and 48, drive electromotively operated brake control units 50, 52, 54, and 56, along the lines of set-point values*”. (See Heckmann at paragraph [0014]).

The Final Office Action further asserts that each microcomputer is capable of communicating brake control data via the BUS lines to each of the control units which are connected to respective brake actuating devices and therefore can be interpreted as individual control units like those of claim 32 as presented. (See Final Office Action). However, even if this is true, the presently claimed subject matter provides for brake actuating devices which are activatable by the electronic control units, at least one of the brake actuating devices being activatable by more than one of the electronic control units which is not the same as “communicating braking information” as suggested by the Office. That is, the Heckmann

reference does not disclose or suggest that the microcomputers of central unit (10) activate the braking units at all, much less that they both activate a single braking unit.

Thus, the central unit (10) of the Heckmann reference cannot be interpreted as corresponding to *multiple electronic control units which activate brake actuating devices*. This is because, as explained above, control units 26 through 32 of the Heckmann reference (not central unit (10)) drive the electromotively operated brake control units 50, 52, 54, and 56, and they are therefore *the control units which activate brake actuating devices*.

Still further, as is apparently indicated in Fig. 2 of the Heckman reference, each control unit (26, 28, 30 and 32) is connected to one brake control unit (50, 52, 54, and 56) via a pair of drive or selection lines (34 and 36, 38 and 40, 42 and 44, 46 and 48) and each control unit “drives” the brake control unit to which it is connected.

Since each control unit (26, 28, 30 and 32) is connected to one brake control unit (50, 52, 54, and 56) and each control unit “drives” the brake control unit to which it is connected, the Heckman reference does not disclose or suggest the feature in which at least one of the brake actuating devices (50, 52, 54, and 56 of Heckman) being activatable by more than one of the electronic control units (26, 28, 30 and 32 of Heckman), as provided for in the context of the presently claimed subject matter of claim 32.

Accordingly, claim 32, as presented, is allowable, as are its dependent claims 33 to 36, 44, 54 and 56.

Claims 38 and 57 were rejected under 35 U.S.C. § 103(a) as unpatentable over Heckman in view of McCann and further in view of U.S. Patent No. 3,566,242 to Williams.

Claims 38 and 57 both ultimately depend from claim 32, *as presented*, and they are therefore allowable for the same reasons, since Williams does not cure – and is not asserted to cure -- the critical deficiencies of the Heckman and McCann references.

Claims 41 to 43 were rejected under 35 U.S.C. § 103(a) as unpatentable over Heckman in view of McCann and further in view of U.S. Patent No. 7,128,376 to Williams.

Claims 41 to 43 depend ultimately from claim 32, *as presented*, and they are therefore allowable for the same reasons, since Williams does not cure – and is not asserted to cure -- the critical deficiencies of the Heckman and McCann references.

Claims 60 to 62 were rejected under 35 U.S.C. § 103(a) as unpatentable over Heckman in view of McCann and further in view of GB 2 400 506A to Monkman et al.

Claims 60 to 62 ultimately depend from claim 32, *as presented*, and they are therefore allowable for the same reasons, since Monkman does not cure – and is not asserted to cure -- the critical deficiencies of the Heckman and McCann references.

Therefore all of pending claims 32 to 36, 38, 41 to 44, 54, 56, 57 and 60 to 62 are allowable – *like allowed claims 39, 40, 45 to 53, 55, 58 and 59*.

CONCLUSION

It is therefore respectfully submitted that all of claims 32 to 36, 38, 41 to 44, 54, 56, 57 and 60 to 62 are allowable – *like allowed claims 39, 40, 45 to 53, 55, 58 and 59*. It is therefore respectfully requested that the rejections and objections be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is respectfully requested.

Dated: 8/30/2010

Respectfully submitted,

By: 

Gerard A. Messina
Reg. No. 35,952

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200

CUSTOMER NO. 26646

*leg. nc.
33,825
Aval
O EDITA)*